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PUBLIC INTERNATIONAL LAW (252F)

VOLUME 1

Professor Craig Scott

1990-1991

Faculty of Law

University of Toronto

Prepared with the research assistance of Catherine Peters

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Lachs, The Teacher in International Law (Dordrecht: Martinus Nijhoff Publishers, 1982) 27

Friedmann, The Changing Structure of International Law (1964), "Formative Era", pp.4-5 30

Friedmann, General Course in Public International Law, (1969) 127 Hague Recueil at 48-49, "Four New Challenges" 31

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Kratochwil, Rules, Norms and Decisions: On the conditions of practical and legal reasoning in international relations and domestic affairs (Cambridge: Cambridge University Press, 1989) at 10-11, 34-39, 183-186, 40-43, 54-56, 81-83, 88-90, 57-66, 187-200, 205-211, 250-256 79

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Buttes Gas and Oil Co. v. Occidental Petroleum Corporation [1981] 3 All ER 616 170

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de Visscher, Theory and Reality in Public International Law (trans. by P.E. Corbett) (Princeton Univ Press, 1957), "Sovereignty in the External Order", 101-105 177

"Recognition, Canadian Practice in International Law", (1988) CYIL 324-326 179

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Hervouet, The Return of Vietnam to the International System, CIIPS Occasional Paper No. 6 (Ottawa: CIIPS, 1988) 196

"U.S. in no rush to embrace Vietnam", Globe and Mail, July 20, 1990, A1,A9 211

"To isolate the Khmer Rouge", Globe and Mail, July 19, 1990, A14 212

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Schmidt, "The Germans and Europe", (1990) XLI(1955) Review of International Affairs 1-5 213

"Germany moves to centre stage", Globe and Mail, July 21, 1990, A1,A7 215

Elling, "The Emerging European Community: A Framework for Institutional and Legal Analysis", (1990) 13 Hastings International & Comparative Law Review 511 216

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Meissner, "The Right of Self-Determination after Helsinki and its Significance for the Baltic Nations", (1981) 13 Case Western Reserve Journal of International Law 375-384 249

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Morris, "Quebec and Sovereignty: The Interface Between Constitutional and International Law", in Special Lectures of the Law Society of Upper Canada: The Constitution and the Future of Canada (Toronto: Richard DeBoo Limited, 1978) 47 at 49-64 267

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Cayuga Indians Claim, in Green, ed., International Law Through the Cases, 3rd ed., (London: Stevens & Sons, 1970) at 56 313

Green, Claims to Territory in Colonial America, in Green & Dickason, eds., The Law of Nations and the New World (University of Alberta Press, 1989) at 84-96, 124-127 316

Little Bear, "Aboriginal Rights and the Canadian 'Grundnorm'" in Ponting, ed., Arduous Journey: Canadian Indians and Decolonization (McLelland & Stewart, 1986) at 243-257 324

Barsh, "Indigenous North America and Contemporary International Law" (1983) 62 Oregon Law Review 84-91, 94-99 332

Brownlie, "The Rights of Peoples in Modern International Law", in Crawford, ed., The Rights of Peoples (Oxford: Clarendon Press, 1988)

at 2, 4-7 339

Williams, The American Indian in Western Legal Thought: The Discourses of Conquest (New York: Oxford University Press, 1989) at 325-333 341

Barsh, "Indigenous Peoples: An Emerging Object of International Law", (1986) 80 AJIL 369-384 346

Revised Draft Universal Declaration on Rights of Indigenous Peoples, [1989] 4 CNLR 44 354

Berman, "The International Labour Organization and Indigenous Peoples: Revision of ILO Convention No. 107 at the 75th Session of the International Labour Conference", (1988) 41 ICJ Review 48-57 358

Convention 169: Convention Concerning Indigenous and Tribal Peoples in Independent Countries, (1990) 28 ILM 1384 363

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Sanders, "Aboriginal Rights: THe Search for Recognition in International Law", in Boldt, Long & Little Bear, eds., The Quest for Justice: Aboriginal Peoples and Aboriginal Rights (Toronto: University of Toronto Press, 1985) at 298-303 378

Grauer, "Canada's success teaches a lesson", Globe and Mail, July 7, 1990, A13 381

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Picard & Poirier, "Oka refuses to sell land until Mohawks disarm", Globe and Mail, August 1, 1990, A1,A6 388

Attorney General of Quebec v. Sioui (Judgement of the Supreme Court of Canada, rendered 24 May 1990) 389

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Roberts Claim, U.S. v. Mexico (1926), in Harris, supra, at 412 407

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Lewis, "U.S. suspends aid to Panama to press regime for change", New York Times, July 24, 1987, 1,9 415

Velasquez Rodriguez Case, Inter-American Court of Human Rights, Judgement rendered July 29, 1988, reported at (1989) 28 ILM 291 416

International Covenant on Economic, Social, and Cultural Rights, 1966, in Brownlie, ed., Basic Documents in International Law (Oxford: Oxford University Press, 1983) 431

International Covenant on Civil and Political Rights, 1966, in Brownlie, supra 435

Scott, "The Interdependence and Permeability of Human Rights Norms: Towards a Partial Fusion of the International Covenants on Human Rights", (1989) 27 Osgoode Hall Law Jl 769-778, 791-797 436

Alston & Simma, "Second Session of the UN Committee on Economic, Social and Cultural Rights", (1988) 82 AJIL 603 445

Broeks v. The Netherlands, Communication No. 172/1984, in United Nations, Selected Decisions of the Human Rights Committee Under the Optional Protocol, Vol.2., 17th - 32nd Sessions (Oct. 1982 - Apr. 1988) (New York: United Nations, 1990) 449

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Sacerdoti, "Barcelona Traction Revisited: Foreign-Owned and Controlled Companies in International Law", in Dinstein, ed., International Law at a Time of Perplexity (Dordrecht: Martinus Nijhoff, 1989) at 699-715 471

Gill, "Comment on U.S. v. Italy", (1990) 84 AJIL 249 480

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"Digest, United States-Iraq: U.S.S. Stark", (1989) 83 AJIL 561 490

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O'Connell, "Judicial decisions", "Text Writings", in International Law, Vol. 1 (London: Stevens, 1970) at 31-32 540

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